

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORKJUAN R. LEIVA, Individually and on behalf of
all other persons similarly situated,

Plaintiff,

-versus-

FISHER BROTHERS BUILDING SERVICES,
INC, and FISHER BROTHERS FINANCIAL
AND DEVELOPMENT COMPANY, L.P.,

Defendants.

USDC SDNY
DOCUMENT
ELCTRONICALLY FILED
DOC #:
DATE FILED: 8-28-08

08-CV-7018 (JSR)

ORDER APPROVING THE PROPOSED
SETTLEMENT AND DISCONTINUING
THE INSTANT ACTION

WHEREAS, on or about August 5, 2008, Plaintiff filed the instant action against Defendants alleging, *inter alia*, that the Defendants violated the Fair Labor Standards Act by refusing to pay overtime compensation and related claims;

WHEREAS, Plaintiff has not filed a Motion for Conditional Class Certification, and the Court has not certified any purported class or collective action;

WHEREAS, neither the Court nor any party or counsel has issued any notice to the purported class;

WHEREAS, no other individual has joined this action as a plaintiff other than the named Plaintiff;

WHEREAS, the parties and their counsel have not publicized this action and this action has not otherwise received any publicity;

WHEREAS, Defendants expressly deny any and all liability to Plaintiff and dispute the merits of Plaintiff's claims;

WHEREAS, the parties desire to amicably resolve all differences between them;

WHEREAS, the parties, after fair, informed and impartial negotiations, have reached a settlement that contains a release of Plaintiff's claims in this action;

WHEREAS, the Fair Labor Standards Act provides that the release is not binding without judicial or Department of Labor supervision;

WHEREAS, the parties submitted to the Court under seal a copy of the Settlement Agreement and General Release ("Agreement"), which contains the Plaintiff's release of claims;

WHEREAS, among other things, the parties have informed the Court that: (a) the parties were represented by able counsel; (b) plaintiff entered into the settlement voluntarily; (c) the settlement does not purport to prejudice or affect the rights of any members of the proposed class; (d) this action may be dismissed without notice to any members of the proposed class; and (e) the terms of the settlement are embodied in a detailed Agreement that the parties have executed;

WHEREAS, the Court having read and reviewed the Settlement Agreement and General Release, finds that the Agreement is fair and equitable;

IT IS HEREBY ORDERED that the Court approves the Agreement to resolve the instant action; and

IT IS FURTHER ORDERED that the above-captioned action is hereby dismissed with prejudice to Leiva and without prejudice to any purported class and without costs as against any Party.

SO ORDERED.

Dated: New York, New York

8/27, 2008



JED S. RAKOFF, U.S.D.J.